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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/410,818	10/01/1999	JAY S. WALKER	99-034	7518

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EXAMINER

DURAN, ARTHUR D

ART UNIT

PAPER NUMBER

3622

DATE MAILED: 04/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/410,818

Applicant(s)

WALKER ET AL.

Examiner

Arthur Duran

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2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 October 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

1. Claims 1-67 have been examined.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 59 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 59 claims a method but is dependent upon claim 56 that claims a device.

Correction is required.

Note: The examiner will examine claim 59 assuming that the applicant made a typographical error and meant to state that claim 59 is dependent upon claim 58.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 1-67 are rejected under 35 USC § 103(a) as being unpatentable over Keithley (5,584,025) in view of Ferguson (5,819,092).

Claim 1: Keithley discloses an apparatus and method for interactive communication for tracking and viewing data. Keithley further discloses that home information can be transmitted to a viewer (col 4, lines 10-13). Keithley fails to explicitly disclose that the information provider (homeowner) is compensated for providing their information. However, Ferguson discloses an online service development tool with fee setting capabilities. Ferguson further discloses that a content provider can be paid for providing information (col 3, lines 50-55) based on a modifiable system (col 4, lines 60-62). It would have been obvious to one of ordinary skill in the art to add Ferguson's compensating the information provider method to Keithley's method for tracking and viewing data. One would have been motivated to do this so that Keithley has a way to award content providers who provide key information.

Claim 2: Keithley and Ferguson disclose a method as in claim 1 above. Keithley further discloses how an Agent may obtain property listing information from a property owner (col 10, lines 52-58).

Claim 3: Keithley and Ferguson disclose a method as in claim 1 above. Keithley does not explicitly disclose periodic compensation. However, Ferguson discloses that content providers can be paid based on a customizable payment system (col 4, lines 60-63). It would have been obvious to one of ordinary skill in the art to add Ferguson's flexible compensation method to Keithley's data tracking and viewing method. One would have been motivated to do this so that Keithley can flexibly award content providers.

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Claims 4, 20, 21, 22, and 23: Keithley and Ferguson disclose a method as in claim 1 above. Keithley further discloses that a digitized picture (col 13, lines 12-15), video, and graphics (col 9, lines 5-9) of the property are provided.

Claim 5: Keithley and Ferguson disclose a method as in claim 1 above. Keithley further discloses that a user may view real estate that need not be for sale but for fostering related ideas of all kinds (col 10, lines 4-12 and col 7 lines 20-23).

Claims 6, 7, 17, 18, and 19: Keithley and Ferguson disclose a method as in claim 1 above. Keithley further discloses that the owner information and home address need not be provided to the user (col 8, lines 20-25).

Claims 8, 10, and 13-16: Keithley and Ferguson disclose a method as in claim 1 above. Keithley further discloses that the method tracks the number of viewers (col 7, lines 17-23), the popularity of a locale (col 10, lines 30-35), the level of interest in a home (col 7, lines 20-23 and col 11, lines 16-18), and quality of features (profile) of a property (col 9, line 61-col 10, line 1), and the price information (Fig. 9, Price).

Claims 9 and 12: Keithley and Ferguson disclose a method as in claim 1 above. Keithley further discloses that a line of credit or special loan can be awarded based on information tracked by the system (col 11, lines 47-53).

Claim 11: Keithley and Ferguson disclose a method as in claim 1 above. Keithley does not explicitly disclose a fixed, predetermined compensation. However, Ferguson discloses that content providers can be paid on a for-fee basis (predetermined amount) (col 3, lines 52-53). It would have been obvious to one of ordinary skill in the art to add Ferguson's flexible

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compensation method to Keithley's data tracking and viewing method. One would have been motivated to do this so that Keithley can flexibly award content providers.

Claims 24 and 25: Keithley and Ferguson disclose a method as in claim 1 above.

Keithley further discloses that the viewer may be charged a fee for viewing home information (col 12, line 66- col 13, line 3).

Claim 26: Keithley and Ferguson disclose a method as in claim 24 above. Keithley further discloses that the viewer can be charged a fee for viewing home information (col 12, line 66- col 13, line 3).

Claims 27-39 and 61: Keithley and Ferguson disclose a method as in claim 24 and 23 above. Keithley further discloses that the invention provides detailed data on all aspects of viewership and response, keeping track of this information via access codes (col 1, lines 34-45), and that a viewer can be charge a fee based on usage of the service and the access codes (col 12, line 64-col 13, line 3).

Claims 40-44: Keithley and Ferguson disclose a method as in claim 1 above. Keithley further discloses that viewer information, viewer home preferences (col 13, lines 31-40), and viewer interest in a home can be received (col 7, lines 20-23). Keithley further discloses that based on this information a set of home information can be sent to the user (col 13, lines 37-40) and the homes can be for sale (col 13, lines 44-45).

Claims 45-46, 54, and 62: Keithley and Ferguson disclose a method as in claim 1 above, claim 53 below, and claim 58 below. Keithley further discloses that the user can shop for homes on the service and that there are databases for receiving the purchase information (col 10, lines 4-

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5 and col 10, lines 58-62). Keithley further discloses that the owner is notified of the offer (col 10, lines 64-67).

Claims 47 and 55: Keithley and Ferguson disclose a method as in claims 45 and 54 above. Keithley further discloses that the end user need not provide their information (col 7, lines 20-23).

Claim 48: Keithley and Ferguson disclose a method as in claim 45 above. Keithley further discloses that the end user enters their purchase price (col 13, lines 31-33).

Claim 49: Keithley and Ferguson disclose a method as in claim 45 above. Keithley further discloses that owner information is stored in the property profiles database (col 6, lines 30-32) and that transactions information is stored in a transactions database (col 10, lines 58-63). While Keithley does not explicitly state that the owner can be penalized for not selling, Keithley infers that the Agent could take such actions utilizing the information in these databases.

Claim 50: Keithley and Ferguson disclose a method as in claim 46 above. Keithley further discloses that owner information is stored in the property profiles database (col 6, lines 30-32) and a Market Data Database are used to track owner interest and information (col 10, lines 58-67).

Claim 51: Keithley and Ferguson disclose a method as in claim 1 above. Keithley further discloses that a home picture can be displayed (col 13, lines 12-15) and that the homeowner can remain anonymous (col 8, lines 20-25). Keithley, therefore, infers that owner identifying information can be taken out of the picture.

Claims 52-53, 56-58, 60, 63-64, and 66-67: Keithley discloses an apparatus and method for interactive communication for tracking and viewing data. Keithley further discloses that

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home information can be transmitted to a viewer (col 4, lines 10-13). Keithley further discloses that a picture of the home can be made available (col 13, lines 12-15). Keithley further discloses that the homeowner can remain anonymous (col 8, lines 20-25) and that the viewer can be charged (col 12, line 66-col 13, line 3). Keithley further discloses that an Agent obtains property listing information from an owner for sale (col 10, lines 52-58). Keithley further discloses that the user can indicate their interest in a home (col 7, lines 20-23). Keithley fails to explicitly disclose that the information provider (homeowner) is compensated for providing their information. However, Ferguson discloses an online service development tool with fee setting capabilities. Ferguson further discloses that a content provider can be paid for providing information (col 3, lines 50-55) based on a modifiable system (col 4, lines 60-62). It would have been obvious to one of ordinary skill in the art to add Ferguson's compensating the information provider method to Keithley's method for tracking and viewing data. One would have been motivated to do this so that Keithley has a way to award content providers who provide key information.

Claim 59: Keithley and Ferguson disclose a method as in claim 58 above. Keithley further discloses that a user may view real estate that need not be for sale (col 10, lines 4-12 and col 7 lines 20-23). Keithley further discloses that the user can shop for homes on the service and that there are databases for receiving the purchase information (col 10, lines 4-5 and col 10, lines 58-62).

Claim 65: Keithley and Ferguson disclose a method as in claim 62 above. Keithley further discloses that the user can shop for homes on the service and that there are databases for receiving the purchase information (col 10, lines 4-5 and col 10, lines 58-62) including the offer



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price made by the viewer (col 13, lines 31-33). Keithley further discloses that the owner is notified of the offer (col 10, lines 64-67) and that marketing data information can be used by the Agent to make notification decisions (col 10, lines 58-67).

### *Conclusion*

4. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a. Melchione (5,930,764) discloses a sales and marketing support system using a customer information database; and

b. Peckover (6,119,101) discloses an intelligent agent for electronic commerce.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (703)305-4687. The examiner can normally be reached on 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (703)305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-7239 for regular communications and (703)746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-3900.

AD

April 17, 2002

  
James W. Myhat  
Patent Examiner  
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